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THE OFFICIAL LANGUAGE-IN-EDUCATION POLICY AND ITS IMPLEMENTATION
AT INFANT SCHOOL LEVEL IN ZIMBABWE

Gamuchirai Tsitsi Ndamba

AN ANALYSIS OF BODY AND SENSORY PERCEPTION: CONCEPTUAL
METAPHORS IN ENGLISH AND SHONA.

Dr Isaac Machakanja

CONTINUOUS ASSESSMENT OF PUPILS' 'O' LEVEL DESIGN PROJECT WORK IN
TECHNICAL SUBJECTS IN SECONDARY SCHOOLS IN ZIMBABWE.

**Fredreck Chinyemba, Andrew Muzinda, Barbra Nhemachena
and Emily Motsi**

A CASE FOR TEACHING DEVELOPMENT PHILOSOPHY TO SCIENCE AND
ENGINEERING UNDERGRADUATES IN ZIMBABWE'S STATE UNIVERSITIES.

Shadreck T. Mandiopera

CRY, THE BELOVED PROFESSION: A STUDY OF SHORT-TEXT MESSAGES
SERVICE (SMSS) ON THE TEACHING PROFESSION.

Nyoni Mika, Nyoni Tsisti, and Tavuya Jinga

SUSTAINABLE OUTSOURCING OF STUDENTS CATERING SERVICES AT
INSTITUTIONS OF HIGHER LEARNING IN HARARE DURING THE HYPER
INFLATIONARY PERIOD: 2003-2008.

Miriam Mbasera

CUSTOMARY LAW OF INHERITANCE IN TRADITIONAL NDEBELE FAMILIES AS
DEPICTED IN SELECTED NDEBELE WORKS OF ART

**Bhebe Cordial, Bhala Timothy, Kadodo Webster, and Sithole
Nicholus**

PHILOSOPHICAL REFLECTIONS ON THE NZIRAMASANGA COMMISSION ON
EDUCATION AND TRAINING OF 1999 WITH SPECIAL REFERENCE TO CHAPTER
4 HUNHU / UBUNTU (HOLISTIC) EDUCATION.

Ngoni Makuvaza

Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art

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Abstract

This article examines how the Customary Law is observed and applied in traditional Ndebele families. It specifically traces and investigates the application of the Customary Law of Inheritance in monogamous, polygamous and the royal Ndebele families. The analysis is drawn from the existing Customary Law, however changed, as well as from how inheritance related issues are expressed and handled in Ndebele novels, drama and poetry. Furthermore, the article highlights some of the major challenges currently faced in the application of this law. It concludes by stating that the Customary Law of Inheritance should not remain static but ought to be dynamic and undergo changes and modifications that are in tandem with the prevailing socio-economic conditions of the times.

Introduction

Zimbabwe is comprised of two major cultural linguistic groups namely Ndebele and Shona. However, there also exists several indigenous linguistic minority groups that are classified as either Ndebele or Shona depending on their geographical location. Ndebele communities are predominantly situated in the western and southern parts of the country generally referred to as Matabeleland North and Matabeleland South. Outside Matabeleland regions, Ndebele people are also found in parts of the Midlands District of Gweru, Shurugwi, Mberengwa, Zvishavane, Kwekwe and Gokwe where Ndebele culture and its customs have prevailed for many years.

The issue of inheritance has been written about in Ndebele novels, plays, poetry, broadcast on radio, dramatized on television, presided over in courts of law and even debated on the Zimbabwean parliament. This wide coverage at different levels and for a demonstrates that it is not only an important custom but is also delicate and sensitive as it may lead to disastrous social consequences if not appropriately handled and / or administered.

Customary Law of Inheritance

It is essential at this stage to define what Customary Law of Inheritance entails. It should be pointed out at the onset that customary law is a concept

derived from the words 'custom' and 'law' that are closely related hence the coinage of the concept 'customary law'. In defining the terms 'customary' and 'law', Soga (1931:47) says,

Law and custom are closely inter-related that sometimes it is difficult to distinguish between the two, but broadly speaking the term law is applied to the appointed rule and the control of, and suctioned by a community. Custom, on the other hand, is a long and established usage or practice which has become habitual and has legal sanctions.

Though the two terms are not easy to distinguish as stated in the citation, law is associated with established rules that are applied by a community while custom is an acceptable practice or habit that has a controlling effect.

According to Goldin and Gelford (1975:70),

Customary law is the oldest form of law known to man. In primitive societies, particularly among people, who had not developed the art of writing, they regulate their conduct according to rules which their ancestors had been accustomed to observe in the past.

Of significance to note from the statement above is that customary law is regarded as a regulatory instrument that sanctions people's behavior in accordance with rules observed and respected in a particular community. However, these rules are not tabulated since they are products of tradition that is respected. In spite of being the oldest form of law, customary law is recognized and appreciated for its effectiveness in molding or shaping characters of both young and old people.

Bozongwana (2000) has researched on Ndebele Religions and Customs and regards custom as symbols or outward signs of an inward spiritual reality. Interestingly, the term custom links to spiritual reality, something that concurs with the title of his book, Ndebele Religion and Customs. Implied in his perception of customs, is that they are understood in terms of what they entail, and that they are indispensable since they are part and parcel of people's culture.

The Legal Resource Foundation (2001) views Customary Law as the law of the African people administered by chiefs and the courts over the years. The pamphlet further reveals that customary law differs from one group to another. Thus, it is not universally applicable across African communities. It is therefore, with these differences in mind that the article deliberately focuses on how the Customary Law of Inheritance applies in Ndebele traditional families.

The second key term to define is 'inheritance'. Inheritance is generally perceived as the established practices mainly concerned with taking over

the ownership or use of the deceased man's property or estate. According to The Legal Resource Foundation (2001), this practice involves the division and distribution of the estate such as livestock, land, money and household goods owned by the deceased to selected or specified beneficiaries. However, under Customary Law, inheritance applies if the deceased followed the traditional way of life that does not subscribe to the practice of writing wills. Thus, in as far as Customary Law is concerned, *indlalifa* (the heir) inherits most of the estate, cattle in particular while other sons are allocated the estate according to their ages and birth positions in the family something that is not contestable.

Having defined the key terms in this study, the article now focus on Customary Law of Inheritance as observed and applied in monogamous, polygamous, as well as in royal Ndebele families.

Inheritance in Ndebele Monogamous Families

In a monogamous marriage under customary law, the deceased man leaves behind his own immediate family members consisting of his wife, children and grandchildren since, in most cases, Ndebele traditional families are extended families. In a traditional setup, the eldest son is *indlalifa* (the heir) that inherits the property of his late father, especially *izinkomo zelifa* (cattle for inheritance). In terms of Ndebele culture regarding inheritance, the heir inherited most of the cattle. The other children of the deceased inherit fewer cattle depending on their ages and birth positions. If the deceased had daughters only, the heir becomes the eldest daughter as pointed out by Sibanda (1998:43) who asserts that, “*Nxa umufi efe ezele amantombazana wodwa indlalifa yintombi endala.*”

In a family where there are both sons and daughters, daughters are beneficiaries who inherit cattle known as *inyembezi zikababa* (tears for the father). Sibanda (1998:43) has this to say about the deceased's cattle inherited by his daughters,

Yinkomo yelifa ephiwa abantwana abangamankazana. Nxa kungelankomo baphiwa imbuzi. Isimiso esikhulu yitemba bazakwehlukniselana ingazala.

The citation reveals that *inyembezi zikababa* (refers to the deceased's cattle given to daughters). If there is no cattle, daughters are given a female goat, the understanding being that they shall share its young ones among themselves if it gives birth.

Ncube (1989:85), an ardent researcher on Family Law in Zimbabwe argues that,

Under customary law unaffected by Legal Age of majority Act, direct lineal succession operated in favour of the deceased's eldest son. This

son thereby became the head of the deceased's own imba and as a Result succeed to the deceased's name and position.

It is apparent from the citation that in families that strictly adhered to customary law daughters were not beneficiaries of the deceased's estate. However, the Customary Law recognizes the fact that *inkomo yohlanga* (cow for motherhood) which is part of *lobola* is not part of inheritance since it specifically belongs to the mother. Also, property that might have been given to women upon marriage was not part of the estate to be inherited by the eldest son.

Sibanda (1998:43) expresses the importance of *inkomo yohlanga* (cow for motherhood) when he asserts that, "*Inkomo yohlanga ngeyokunginisa abantwana emasikweni abogogo bakonina.*"

Highlighted in this assertion is that the cow for motherhood serves to usher or admit children into the cultures to create and strengthen their relationship with the mother's family. Under Customary Law of Inheritance, the fate of the widow is decided during the Inheritance Ceremony. Sibanda (1998) and Nyathi (2001) concur that the fate of the widow is decided through the performing of an activity called *ukweqiwa kwentonga* (jumping over the knobkerry and spear). This act involves *umfelwakazi* (the widow) jumping forwards and backwards over the knobkerry and spear placed across the doorway. However, if the widow decides not to be married, she gives them to one of her grown up sons who then look after them. In this regard, *ukungenwa* (the custom of acceptance of the deceased's brother as a husband) is not oppressive as the widow is at liberty to choose whether or not to marry. Problems, however, arise if the widow later on engages in secret love affairs and then abuses the deceased's estate with other men. This is strongly resisted. According to Ndebele custom, the deceased's estate should only benefit *abemdem* (close family members). In this regard, this custom is very protective as it guards against the invasion of the deceased's estate by outside, something that may result in bloodshed if unchecked. It may also result in undeserving people benefiting from the deceased's estate that is rather unfair.

Inheritance in Ndebele Polygamous Families

Customary Law also applies in polygamous families that were a major characteristic of Ndebele traditional families. Polygamous families come in deferent sets, the ordinary one as well as the royal polygamous family. In this study, ordinary polygamous refers to any family whereby a man has *isithembo* (more than one woman) other than the royal one. Lewin (1944:21) describes polygamous marriages under Customary Law and says,

According to Native Custom, a man can marry more than one wife, a

fact recognized today by the law, which allows a man to enter into more than one customary union. With every customary union, a separate house is established and certain legal rights statutes are attached in the house.

This scenario of polygamous marriages is also true of what obtains among the Ndebele. Under Customary Law, the first woman to be married, *indlunkulu* (senior wife) and other house established later are junior to the senior wife. In this family setup, the heir is the eldest surviving son of the deceased as long as he is not *ivezandlebe* (illegitimate).

Sibanda (1998:170) who has researched on inheritance in Ndebele polygamous families observe that,

Nxa kusesithenjini indlalifa yingqabutho yalowo owenda kuqala eyithombi kumbe egcwalisiwe ubuntu.

According to this observation, in a polygamous marriage the heir is the first born son of the senior wife who would have been a virgin upon marriage. In Ndebele, the first born son is known as *ingqabutho*. If there happens to be no son from the senior house, the heir comes from the second senior house. In the absence of a son in the entire polygamous man's family the eldest daughter from the senior household becomes the heir (Sibanda, 1998). Although *indlalifa* (the heir) as the Ndebele name implies, inherits the largest share, the percentages of the estate distributed to other children gradually decreases depending on their birth positions in the family hierarchy. However, *impahla yomfelwakazi* (widow's property) such as a cow for motherhood, sheep, goats and household goods are not distributed because they are not part of *ilifa* (heritage).

Like in the monogamous family, *isiko lokungena* (custom of choosing a husband), is also followed in a polygamous family. As previously indicated, the widow is at liberty to choose one of her sons instead of the deceased's brother if she does not want to marry again. The custom is premised on the understanding that whoever is chosen would be responsible for the survival of the widow and her children, and thereby safeguarding the family name and property. Unfortunately, it is not always the case as some of the unscrupulous heirs or chosen husbands capitalize on the vulnerability of the custom to abuse the deceased's estate at the expense of the widows, children and grandchildren. The mismanagement and misappropriation of the estate by inconsiderate or greedy heirs and relatives have been a cause for concern. This is evident from the broadcasting of inheritance related problems and issues over the radio in national programmes like *Inhlupho zalamhla* (Today's problems) and *Chakafukidza dzimba matenga* (All that glitters is not gold) and the drama series entitled 'Inheritance Court' which is being screened on television. As a result of the abuse of the deceased's property, the Inheritance Law has been partially revised through the initiative of the august House of Parliament.

Goldin and Gelfand (1975:234) have made these observations about Ndebele Customary Law of Inheritance in a polygamous marriage.

Each house established a 'house' or independent. Thus, if a man has three wives there will be three there 'houses' in existence. In Ndebele the heir (idlalifa) inherits the family property (ilifa) as absolute owner exclusive of assets of junior houses.

Implicit in this observation is that the law of inheritance in Ndebele is considerate since it does not allow misappropriation of the estate that belongs to the junior houses by the principal heir from the senior house. Despite the fact that the law is considerate towards junior houses' assets, Feminists and Human Rights organizations regard it as discriminatory, biased and disparaging. Such sentiments are evident in Precity's poem entitled *Ngingumfazi* (I am a woman) in Zimbabwe Women Writers Selections Inkondlo (1998) in which stanza 6 reads:

Bantu benkosi

Ngingumfazi

Ugangikhangeli ngelilihlo lokweyisa

Ngoba lami ngiyisidalwa esikhaliphileyo

Isidalwa esiletha ukuphila lentuthuko

The message put across in this stanza is that women must not be despised or discriminated against since they are also human beings capable of providing life and development. It is for this reason that the Customary Law is considered to be discriminatory because it does not regard women as equal to men when it comes to inheritance yet both men and women are human beings first and foremost. That is, one's sex cannot be a disadvantage as it is not a social construct but is biologically determined.

Inheritance in Ndebele Royal Families

The traditional rules of inheritance also apply to the estate of royal families among Ndebele people. Ndebele royal families are by nature always polygamous as tradition has it that Ndebele kings and chiefs marry many women, a practice that is understood or believed to have a unifying effect in the nation and is also meant to *ukwandisa abesendo* (increase the population of the royal family).

Child (1968:34) notes that,

The general rule is that wives rank in seniority in order in which they were married, but in the case of the chief, the heir is the son of Inkosikazi (queen) married after the chief's appointment by the Native Law.

It is evident in this citation that *inkosikazi's* (queen) son succeeds the late

chief and thereby inherits the estate of the chieftdom. In royal families of kings, the eldest son is born of *indlovukazi yesikhosini* (queen of the royal family). However, according to Nyathi (2006), the heir who succeeds the Ndebele king should be born of *intombi egcweleyo* (a virgin who marries for the first time).

The application of Customary Law of Inheritance is the same across the board in spite of the fact that the Ndebele society is characterized with different levels of leadership and authority. The hierarchy from the bottom ranges from *usobhuku* (sub-chief), *umlisa* (headman), *induna* (the chief), right up to *inkosi* (the king). The level associated with the royalty is one headed by the king. Regarding inheritance in royal families, Krige (1936) observes that the king's son from *indlunkulu* (senior house), even if he is younger than his brothers in junior houses, he inherits the estate of the royal family and ascends to the throne by virtue of being born by *indlovukazi* (royal queen). In spite of the fact that the Customary Law of Inheritance is observed and applied in terms of Ndebele culture, succession disputes involving chiefs and kings' sons may arise. A case in point is that of *uMbiko kaMadlenya* (Mbiko, son of Madlenya) in Sibanda's (1981) novel.

The ascendance of Tshaka to the Zulu throne was a result of his killing of his half brother, Sigujana who had succeeded Senzangakhona as chief. Tshaka who was brought up in the Mthethwa state, *komalumakhe* (maternal uncle), objected to Sigujana's appointment. With the help of Dingiswayo's army, he crushed him, took over the chieftainship and then expanded the Zulu chieftdom into an empire hence part of his praises from Nyembezi (1968) which read,

*Uteku lwabafazi balolumgabi
Betekula behlezi emloveni
Bethi uShaka kayikuba yinkosi
Kanti kunyakana eyakumethezela...*

The meanings of these praises is that Tshaka who was never thought of becoming a king, surprisingly, rose to power and became a powerful king whose influence both politically and militarily was to be felt far and beyond Nguniland. Precisely, Tshaka's ascendance to power was a surprise to many as expressed by *abafazi balololumgabi* (women of lomgrabi) who, unknowingly joked that he was not to become a king, while in the shade of a tree known as *mloveni* in Zulu.

Inheritance in Ndebele Novels, Plays and Poetry

Ndebele literary works also examine the Customary Law of Inheritance. In this article, the focus has been on those works whose contents directly or indirectly relate to the Ndebele Inheritance Custom. Ngwenya (1982) in his novel, *Ilifa Lidliwa Ngumninilo* (Inheritance goes to the heir) present a

tense conflict over the deceased's estate between Mangundla, the brother of the late Sikhendevana and Swelibizo the heir apparent. This novel has a rural setting characterized by traditional huts, communal drinking of traditional beer and *ilifa lezinkomo* (inheritance of cattle) left behind by Swelibizo's father. Instead of procedurally handing over the estate to *indlalifa* (heir) as customarily expected in a monogamous family, due to greed and jealous, Mangundela disinherits the rightful heir of his late father's estate. A fierce and violent fight that ensues is eventually resolved through the death of Mangundela. The estate is, thereafter restored to *indlalifa uqobo* (rightful heir) as implied by the title of the novel Ilifa Lidliwa Ngumninilo (Inheritance goes to the heir). Although the rightful owner inherits the estate at the end as advocated by Ndebele Customary Law of Inheritance, this does not happen without a fight. Swelibizo, the heir, had to fight for it since inheritance is characterized by conflict and clashes. Such conflicts have prevailed over years and testify to the fact that the deceased's estate may fall in the wrong hands if not properly administered. In his novel, Ngwenya (1982) reveals that an attempt to disinherit the heir of his estate does not always succeed. Therefore, if the Customary Law of Inheritance is to be recognized and respected by future generations it should always triumph.

Sibanda (1981 in his historical novel, UMbiko kaMadlenya (Mbiko, the son of Madlenya) vividly describes a succession dispute between Lobengula's appointment as Mzilikazi's successor in the absence of Nkulumane who was said to have been staying with his uncle could not be found. Historical events of this novel happen at the Ndebele king's royal palace at Mhlahlandlela at Ngcekezeni that was Mbiko's residence as he was *induna enkulu* (senior Chief). Mbiko, who was power-hungry and with the backing of his wife Zinkabi who was Mzilikazi's sister, proclaimed that Nkulumane was visiting his home at night. He therefore, challenged Lobengula's succession to the throne. In fact Mbiko was lying because he knew that Nkulumane had been killed on the pretext that he had been taken to his uncle in Zululand. This was after Nkulumane was accused of having organised *Inxwala* (Festival of the first fruits) when Mzilikazi, his father, was still alive.

Subsequently, a war involving Lobengula's forces and Mbiko's ensued. Although Mbiko's army, with the backing of other generals, fought bitterly, it was finally defeated. Lobengula who was recognized by the Customary Law ascended to the throne and became the next Ndebele king after his father Mzilikazi.

However, it does not mean that succession disputes are always resolved through the influence of the Customary Law of Inheritance. This is evident from the rise of Tshaka to power after the death of his father Senzangakhona. Instead of respecting his half brother Sigujana who had

ascended to the throne according to traditional law, Tshaka, with the help of the Mtetwa army killed Sigujana and took over the chieftainship. The deposition of Sigujana who was older than Tshaka and was the rightful heir proves beyond doubt that succession disputes and surprises do prevail.

Sigogo (1976) in his play entitled *Indlalifa Ngubani?* (Who is the heir?), examines a hot debate on Ndebele Customary Law of Inheritance in a polygamous family. Issues like *ukunathwa kotshwala besintu* (drinking of traditional beer), *ukutshukwa kwesikumba sembila* (processing of a rabbit's skin) and *ukusetshenziswa kweseko lesintu* (use of a traditional cooking stand) place this play in a rural setting. The debate in question revolves around two mothers who wed after pregnancy and having children with other men, described as *amamitha* in Ndebele. Mpunzo, who is the eldest son in this polygamous family, is born of a mother who had two children elsewhere before her marriage to the deceased Mhlolo Ndlovu. Mpunzo being *ivezandlebe* (illegitimate son) in this play does not qualify to be heir. In another house, Lumphondo cannot be heir because his mother had pregnancy from another man when she married the deceased. Phehlani who is Lumphondo's younger brother cannot inherit the estate since he is not from *indlunkulu* (senior house). As none of the two married women qualifies to give birth to *indlalifa* (heir), according to the custom of inheritance, suspicion, mistrust and hatred is bound to happen. Ultimately, the volatile situation degenerates into quarrels and fights which lead to Mpunzo's death and the planned inheritance ceremony is spoiled. Therefore, the play ends without *ukwabiwa kwelifa* (distribution of the estate) as none of the sons is *indlalifa* (heir), hence the question in the title of the play *Indlalifa Ngubani?* (Who is the heir?) remains unanswered. This is a clear challenge to the interested readers, academics, traditionalists and researchers on Ndebele culture and customs. Besides the author's effective handling of the issue of inheritance, it was apparent from his plot that Ndebele custom is careful and thorough in dealing with issues related to inheritance.

Sidambe (1977) also deals with the delicate issue of inheritance in his play entitled *Okunje Akuzange Kwenzakale* (Something Like this has Never Happened). In this play, the author discusses inheritance as a source of traditional pride for the Ndebele. Events of the play unfold in a rural setting of Esiphengweni where Siwela's polygamous family prepares for an inheritance ceremony. This rural setting is, therefore, appropriate as Ndebele people always conduct such a ceremony in a traditional way believed to be associated with *amadlozi* (spiritual mediums). The plot starts with Mpiyabo, the deceased's *indlalifa* (heir) disappearing from home and is later rumoured to have died in South Africa popularly known as eGoli by Ndebele speakers. Unexpectedly, and just a week before *umbuyiso* (the inheritance ceremony) is held, Mpiyabo returns home. A violent conflict then ensues between him and his half brothers over the deceased's estate. The deceased's sons subsequently kill each other and none of them inherits

the estate, hence the shocking title of the play Okunje Akuzange Kwenzakale (Something like this has Never Happened). Indeed, the killings in this play are not only shocking, but also horrible to say the least. In accordance with the dictates of the custom, the drama should have ended in a conventional way with *indlalifa* (heir) inheriting the estate and his rivals ruthlessly punished for daring to challenge tradition. The drama, however, takes a different dimension and confirms the observation that inheritance is a sensitive issue that has disastrous effects even when properly handled.

Challenges facing the Ndebele Customary Law of Inheritance

Although the Customary Law has been reliable and effective among the traditional families, currently it is encountering several challenges that make it difficult to survive in the prevailing socio-economic conditions. These challenges are a result of modernization, Christianity and formal education among other factors that have, one way or the other, affected its recognition and application. Modernization has seriously threatened the existence and survival of the custom by ushering in the country's constitution and awareness of Human Rights. In terms of Article 16 (1) of the Zimbabwean Constitution on Protection from deprivation of property, *"No property of any description or interest or right therein shall be compulsorily acquired except under the authority of the law...."* This clause of the constitution protects spouses, especially women and children whose property may be seized by other individuals since the Customary Law is open to abuse. Furthermore, the constitution does not limit women to household property as done by Customary Law of Inheritance that, according to Feminists and Human Rights activists is discriminatory. The changes brought about by modern life have also done away with the principle of the eldest son inheriting the deceased's estate at the expense of the wife who would have contributed extensively towards its accumulation. On how the property is shared under General Law of Inheritance as outlined in the Legal Resources Foundation (2001:13) pamphlet, "the main principle is that the spouse and children will inherit." The principle clearly shows that legally women and children are not discriminated but are equal to men when it comes to inheritance issues.

Feminists and writers in general, have also brought constraints on the provisions of Customary Law of Inheritance. The difficulties that women in particular face in accessing resources from the deceased's estate, are now clearly recognized at the international level (Hellum, Stewart, Ali and Tsanga, 2007). As a result, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), an international instrument, has now been set up and it condemns discrimination against women in all its forms. Furthermore, this convention demands that countries put in place

legislation that abolishes laws, customs or practices that constitute discrimination against women. It is, therefore, with such developments in mind that the Customary Law of Inheritance is not only queried but is also challenged as it discriminates against women when it comes to inheritance and succession issues.

In addition, Feminist authors and poets no longer portray women as *abantwana* (children) to be provided for by their men or husbands. These writers feel women were and are still providers in their own right, hence they deserve full rights to inherit their late husbands' estates as spouses and not as dependents as directed by Customary Law of Inheritance. Sentiments to this effect are expressed in Zimbabwe Women Writers (1998) in Mabuya's poem entitled 'Ngingumfazi' (I am a woman) as highlighted earlier on.

Formal education has also come as a challenge to the Ndebele Customary Law of Inheritance. One way or the other, it has influenced people to adopt the General Law of Inheritance that is associated with the will and does not discriminate against women on basis of gender like the Customary Law of Inheritance. Nkala, one of the poets in The Zimbabwe Women Writers (1998), in her poem entitled 'Infundo' (Education) proclaims that education has replaced cattle as heritage.

*Okhokho babegiya bethi ilifa zinkomo
Kodwa phinde uyizwe indaba yenkomo namhlanje
Wena kuphela suyilo itshoba lokuziqhenya
Begiya abakugodlileyo ngoba belekusasa
Yokukhangeza amasi omcaba*

Highlighted in this extract is that, cattle were the heritage of *okhokho* (great grandparents), but are no longer talked about anymore. Instead, they were replaced by education that has become the only symbol of pride and those who possess it deserve to be proud of selves because they are assured of a prosperous and enjoyable future.

Another poem entitled 'Vus'inkophe' (Be awake) by Makhalisa in The Zimbabwe Women Writers (1998) collection, challenges women to wake up and stand on the own because they have the capacity to do so. This is revealed in parts of stanzas 1 and 3 that read,

*Vus'inkophe dade lomama
Vus'inkophe kusile bo!
Vus'inkophe uthathe unyawo olutsha
Bathi esalela muv'ibanjwa yizinja*

*Ulamadl'esambane
Ulokuzimisela
Ulokubekezela*

Awehlulwa lutho...

These lines strongly and categorically reject the perpetuation of the customary practices that regard women as minors to be provided for by men. The poet challenges the women folk to liberate themselves from the yoke of customary practices that do not recognize their capabilities. The poet further argues that there is nothing impossible for women to achieve if they have a will. It is in this regard that, the survival of The Customary Law of Inheritance is threatened from both feminist movements and writers who consider it oppressive, discriminatory and biased against women.

Conclusion

In conclusion, it is pertinent to mention that the article highlights some of the strengths and weaknesses of the Ndebele Customary Law of Inheritance.

Strengths

- The Ndebele Customary Law of Inheritance is respected in traditional families and communities for its effectiveness in managing the deceased's estate. The custom directly or indirectly prepares *inhlalifa* (the heir) before the death of his father for full family responsibilities. Among some of the responsibilities of the heir are, the provision of food for the family, presiding over family issue or disputes and solving of problems.
- Another strength of this custom is that it allows *abonideni* (close family members) to meet and consult before *ukwabiwa kwelifa* (distribution of the estate). This is an attempt by *abadhala bemuli* (elders of the family) to nip in the bud family disputes or quarrels over the deceased's estate. As a result, inheritance ceremonies that observe it are often successfully conducted.
- The customary law is also transparent and considerate in its distribution of the deceased's estate in a polygamous marriage. For example, this custom prohibits the heir from misappropriating the property belonging to junior houses.
- Furthermore, The Ndebele Customary Law of Inheritance recognizes respects *izinkomo zohlanga* (cattle for motherhood) when it comes to inheritance. That is, the custom does not temper with them. Instead, such cattle remain the widow's property and are not part of other livestock meant for *ukwabiwa* (distribution). Therefore, such a practice safeguards the widow's property rights.

Weaknesses

- The Ndebele Customary Law of Inheritance is open to abuse. That is, *indlalifa* (heir) may capitalize on his position as the eldest son to disinherit the heirs from junior household property in polygamous

families. *Abemdeni* (family relatives) entrusted with the responsibility of distribution of the estate, may, out of greed and jealous, also abuse that responsibility and manipulate the customary law to their advantage.

- The Customary Law of Inheritance is biased against married women who are in different marriage set-ups. For instance, it does not recognize women as equal to men when it comes to inheritance of the deceased's estate. As a result, women are only entitled to *inkomo yohlanga* (cattle for motherhood) while daughters only inherit cattle in the absence of sons in the deceased's family.
- Although the custom respects *inkomo yohlanga* (cattle for motherhood) since it remains untouched as the mother's property. The Ndebele Customary Law of Inheritance is restrictive in that widows and their daughters only receive household goods but are denied livestock although they may have contributed towards the property.
- Another major weakness of this custom is that it disregards the widow's freedom of choice when it comes to *ukungenwa* (choosing of the next husband or somebody to look after the family). Although the widow can choose not to be married to any of the deceased's relatives by choosing her son, the custom vitiates her freedom of choice by limiting her second marriage to the deceased's relatives something that may be against her wish.

Having presented both the weaknesses and strengths of The Ndebele Customary Law of Inheritance, what should be emphasized is that this custom cannot remain static, rather it has to undergo changes and modifications. It has to be said that customs prevail as survival strategies that can be dropped when times change or when they have outlived their usefulness. Therefore, For the Ndebele Customary Law of Inheritance to remain relevant and meaningful, it must try to keep pace with current trends or perceptions regarding inheritance.

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